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THE HON'BLE SRI JUSTICE A.GOPAL REDDY

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WRIT PETITION No.24191 OF 2004

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DATE: 21-04-2006

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Between:

S.China Pullaiah Naik . . .Petitioner

and

The District Collector, Kurnool District,

and others . . .Respondents

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WRIT PETITION No.24191 OF 2004

O R D E R:

The petitioner, who is the owner and possessor of agricultural land admeasuring Ac.6.00 cents in R.S.No.78/1A, 78/2 and 80 of K.Kothuru Village, Rudravaram Mandal, Kurnool District, invoked the jurisdiction of this Court under Article 226 of the Constitution of India to restrain the respondents from digging a canal through his land without acquiring the same and without following due procedure and consequently, prayed to protect his rights over the said land.

The third respondent-Superintending Engineer, Telugu Ganga Project Circle, Nandyal, filed counter stating that alignment of the proposed Block No.16 (Reach 3 from Km. 2.500 to Km. 5.500) Ellavathula Major Canal under Telugu Ganga Project is passing through Survey No.78/1A, 78/2 and 80 of K.Kothuru Village. The proposals for acquisition of land required were sent to the Special Deputy Collector (Land Acquisition), Telugu Ganga Project, Nandyal, vide letter, dated 29-01-2000 and acquisition is not yet completed. The department has no intention of taking possession of the land without following due procedure contemplated under the Land Acquisition Act or without obtaining consent from the landowners. All the adjacent landowners have given consent for excavation of canal and only certain part of the work in the third reach was carried out in July, 2004. Due to petitioner's objection in survey Nos.78/1A and 78/2, earthwork excavation and CM & CD works could not be tackled for a length of 117 m. i.e. from Km. 4.550 to Km. 4.667 in the above mentioned reach. The canal would be excavated only after acquiring land or with the consent of the petitioner. Though the counter affidavit was filed in August, 2005, the petitioner has not controverted the said fact.

In view of the same, until the respondents follow due procedure as contemplated under the Land Acquisition Act for acquisition of lands and paid necessary compensation, it is needless to say that the respondents cannot take possession of the property.

With the above observation, the writ petition is disposed of. However, this order will not preclude the respondents from negotiating with the petitioner for taking possession of the property or follow due procedure for acquiring the property. There shall be no order as to costs.

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(A.GOPAL REDDY, J)

21st APRIL, 2006.

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